



COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 09-1

February 10, 2011

Investigation by the Department of Telecommunications and Cable on its own motion, pursuant to General Law Chapter 159, Section 16, of the telephone service quality of Verizon New England Inc., d/b/a Verizon Massachusetts, in Berkshire, Hampden, Hampshire, and Franklin Counties.

ORDER ON JOINT MOTION FOR APPROVAL OF SETTLEMENT

I. INTRODUCTION

On June 1, 2009, the Department of Telecommunications and Cable ("Department") opened an investigation ("Investigation") of the telephone service quality provided by Verizon New England Inc., d/b/a Verizon Massachusetts ("Verizon"), to its customers in Berkshire, Hampden, Hampshire, and Franklin Counties ("Western Massachusetts"). *In re Verizon Serv. Quality in W. Mass.*, D.T.C. 09-1, Order Opening Investigation (June 1, 2009). The investigation was opened pursuant to G. L. c. 159, § 16. On December 16, 2010, the Attorney General of Massachusetts ("Attorney General"); Verizon; the International Brotherhood of Electrical Workers ("IBEW"); and the Towns of Egremont, Hancock, and Leverett (collectively, the "Parties")¹ filed a Joint Motion for Approval of Settlement ("Joint Motion"). As set forth below, the Department grants the Joint Motion and approves the Settlement Agreement.

¹ The Towns of Shutesbury ("Shutesbury") and Rowe ("Rowe") are also parties to this Investigation but did not join the Joint Motion. In the case of Shutesbury, the 33 Verizon customers who petitioned the Department on

II. PROCEDURAL HISTORY

As part of the Investigation, the Department held five public hearings in Western Massachusetts² during which a number of residents and municipal officials gave sworn testimony regarding their experiences with Verizon's service quality. *See In re Verizon Serv. Quality in W. Mass.*, D.T.C. 09-1, Notice of Pub. Hearing (rel. June 4, 2009); *In re Verizon Serv. Quality in W. Mass.*, D.T.C. 09-1, Notice of Pub. Hearing & Extension of Deadline for Written Comments & Petitions for Leave to Intervene (July 8, 2009). Discovery was taken over a course of more than seven months. *In re Verizon Serv. Quality in W. Mass.*, D.T.C. 09-1, Procedural Notice (rel. Sept. 4, 2009) (establishing the procedural schedule for the Investigation, including discovery); Parties' Request for Change to Procedural Schedule, *In re Verizon Serv. Quality in W. Mass.*, D.T.C. 09-1 (Oct. 15, 2009) (requesting the Department revise the rolling discovery date).

At the end of the initial round of discovery, the Parties filed their written pre-filed and rebuttal testimony, whereupon additional discovery based on the written testimony was exchanged prior to evidentiary hearings. *In re Verizon Serv. Quality in W. Mass.*, D.T.C. 09-1,

behalf of their town, pursuant to G. L. c. 159, § 24, did not participate in the Investigation after filing their complaint. Transcript of Jan. 26, 2011 Pub. Hearing & Dep't Inquiry Into Joint Motion & Settlement Agreement ("TR.") at 1064:2-1064:18. In the case of Rowe, its attorney informed Assistant Attorney General Sandra Callahan Merrick that Rowe "was continuing to only monitor the case and that the Town did not have an objection to the settlement agreement." E-Mail of Sandra Merrick to Alexander E. Moore, et al., dated Jan. 19, 2011, attached as Exhibit 1 to the TR. As stated in the Joint Motion and during the aforementioned hearing, the settlement agreement ("Settlement Agreement") was negotiated by the Parties with the expectation that the steps undertaken by Verizon would address the service quality issues in Western Massachusetts, including those raised by Shutesbury and Rowe. *E.g.*, Joint Motion at ¶ 3 ("The Settlement Agreement is in the public interest since it will provide benefits to consumers, in the form of improved telecommunication infrastructure and service, and requires additional reporting by Verizon MA of its service quality performance in Western Massachusetts. The [Settlement] Agreement is intended to fully resolve the Department's investigation in this proceeding.").

² The public hearings were held in the Towns of Greenfield, Florence, Pittsfield, Westfield, and Chester.

Procedural Notice at 1-2. On March 31, 2010, the Department held the first of six evidentiary hearings in Northampton, Massachusetts. *In re Verizon Serv. Quality in W. Mass.*, D.T.C. 09-1, Notice of Pub. Hearing on the Regional Investigation of Verizon Mass.’ Tel. Serv. Quality (Mar. 15, 2010). The second evidentiary hearing was held in Northampton the following day, and the remaining four evidentiary hearings were held in Boston, Massachusetts (April 6, April 12, April 13, and May 21, 2010).

Initial briefs in the Investigation were filed by the Attorney General, the IBEW, and Verizon on June 18, 2010, and by the Town of Leverett (“Leverett”) on June 19, 2010. Initial Brief of Attorney General (June 18, 2010); Initial Brief IBEW (June 18, 2010); Initial Brief of Verizon New England Inc. (June 18, 2010); Initial Brief Leverett (June 19, 2010). Reply briefs were filed by the Attorney General, the IBEW, and Verizon on July 9, 2010. *See* Reply Brief of the Attorney General (July 9, 2010); IBEW Reply Brief (July 9, 2010); Reply Brief of Verizon New England Inc. (July 9, 2010).

On December 16, 2010, the Parties filed their Joint Motion. According to the Parties in the Joint Motion, the Department’s approval of their settlement “is in the public interest since it will provide benefits to consumers, in the form of improved telecommunications infrastructure and service, and requires additional reporting by Verizon MA of its service quality performance in Western Massachusetts.” Joint Motion at ¶ 3. The terms of the settlement are memorialized in a Settlement Agreement executed by the Parties, a copy of which was attached to the Joint Motion.

On January 26, 2011, the Department conducted a public hearing and inquiry (“Hearing”) into the Joint Motion and Settlement Agreement. Public notice of the Hearing was issued on

January 13, 2011 and published on January 18, 2011 in the Springfield Republican and the Boston Globe. The public was invited by the Department to attend the Hearing and provide comments in person or submit written comments regarding the Joint Motion and Settlement Agreement. *In re Verizon Serv. Quality in W. Mass.*, D.T.C. 09-1, Notice of Pub. Hearing & Inquiry, at 1-2 (Jan. 13, 2011). Representatives from the Attorney General's Office, Verizon, and IBEW attended the Hearing.

During the Hearing, the Department reviewed each operative provision of the Settlement Agreement and confirmed the Parties' mutual accord as to the intent of each provision. TR. at 1060:10-1061:13. Based upon the representations of the Parties in the Joint Motion and their statements during the Hearing, the Department grants the Joint Motion and closes the Investigation.

III. ORDER

Consistent with the above, the Department hereby:

GRANTS the Joint Motion for Approval of Settlement; and it is

FURTHER ORDERED that the Investigation by the Department of Telecommunications and Cable on its own motion, pursuant to General Law Chapter 159, Section 16, of the telephone service quality of Verizon New England Inc., d/b/a Verizon Massachusetts, in Berkshire, Hampden, Hampshire, and Franklin Counties, is CLOSED.

BY ORDER OF THE DEPARTMENT,

/s/ Geoffrey G. Why
Geoffrey G. Why, Commissioner